

ECONOMIC, SMALL BUSINESS, AND CONSUMER IMPACT STATEMENT¹

TITLE 2. ADMINISTRATION

CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

1. Identification of the rulemaking:

R2-8-401 contains definitions that are applicable to this Article. R2-8-401 needs to be amended to reflect that for purposes of appeals, the “Board” refers to the Committee designated by the Board to hear appeals. R2-8-403 allows a person who is dissatisfied with a decision by the Director to file an appeal with the ASRS by submitting a Request for Hearing of an appealable agency action. The ASRS will amend the rule to distinguish between an appeal related to a long-term disability determination and an appeal related to a member benefits determination. R2-8-405 allows a person who is dissatisfied with the final decision of the appeal to file a motion for rehearing or review. The ASRS will amend this rule to distinguish between a motion for reconsideration and a motion for rehearing. The amended rules will better reflect the ASRS appeals process and will make the appeal rules more consistent, clear, and understandable; this rulemaking will ensure members have notice about how the ASRS processes different types of appeals.

a. The conduct and its frequency of occurrence that the rule is designed to change:

In each fiscal year, the ASRS receives approximately 10 appeals related to the Long-Term Disability Program and approximately 300 appeals total. Of those appeals, approximately 30-60% of the appeals are addressed to the ASRS Director instead of the Member Services Division Assistant Director. Moreover, out of the total number of appeals the ASRS receives, approximately 3-4 of those appeals result in the appellant requesting a Motion for Rehearing before the Board or a Motion for Review of a Final Decision each year. The appeals rules in Article 4 need to be amended to clarify that a letter of appeal must be reviewed by the Assistant Director first and any party who is not satisfied with the Assistant Director’s decision may appeal to the ASRS director. The rules also need to be amended to distinguish the differences between a Motion for Rehearing before the Board and a Motion for Review of a Final Decision. With the changes completed in this rulemaking, the

¹ If adequate data are not reasonably available, the agency shall explain the limitations of the data, the methods used in an attempt to obtain the data, and characterize the probable impacts in qualitative terms. (A.R.S. § 41-1055(C)).

appeals rules will be clearer and more effective. Ultimately, this will reduce any administrative delay in processing appeals.

- b. The harm resulting from the conduct the rule is designed to change and the likelihood it will continue to occur if the rule is not changed:

Currently, it is unclear that a Motion for Rehearing before the Board is a specific request distinct from a Motion for Review of Final Decision. Clarifying the difference between these two requests will ensure appellants understand which request to make and how the ASRS will handle such requests. Although the ASRS follows a tiered appeals process whereby appeals are handled at the assistant director level before being escalated to the ASRS Director, many appellants do not understand that their appeal will be reviewed at the assistant director level first.

- c. The estimated change in frequency of the targeted conduct expected from the rule change:

This rulemaking will clarify how the ASRS processes certain appeals requests, thereby increasing understandability of the appeals process and increasing the efficiency of the appeals process. Clarifying to whom appeal letters should be addressed will ensure that appeals are processed more efficiently by the proper authority. Clarifying the difference between a Motion for Rehearing before the Board and a Motion for Review of a Final Decision, will ensure the appellant requests the appropriate action. As discussed above and below, these amendments will increase the clarity and effectiveness of the rules, which should result in reducing the member's confusion, as well as any potential delay caused by the confusion.

- 2. A brief summary of the information included in the economic, small business, and consumer impact statement:

The ASRS promulgates rules that allow the agency to provide for the proper administration of the state retirement trust fund. ASRS rules affect ASRS members and ASRS employers regarding how they contribute to, and receive benefits from, the ASRS. The ASRS effectively administers how public-sector employers and employees participate in the ASRS. As such, the ASRS does not issue permits or

licenses, or charge fees, and its rules have little to no economic impact on private-sector businesses, with the exception of some employer partner charter schools, which have voluntarily contracted to join the ASRS. Thus, there is little to no economic, small business, or consumer impact, other than the minimal cost to the ASRS to prepare the rule package. The rule will have minimal economic impact, if any, because it merely clarifies the appeals process. Clarifying the appeals process will increase understandability of how a person may submit an appeal and will ensure members of the public understand how an appeal will be handled with the ASRS, which will increase the effectiveness and efficiency of the appeals process; thus, reducing the regulatory burden and the economic impact.

3. The person to contact to submit or request additional data on the information included in the economic, small business, and consumer impact statement:

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4. Persons who will be directly affected by, bear the costs of, or directly benefit from the rulemaking:

In general, all members, as well as their beneficiaries, and Employers of the ASRS will be directly affected by, bear the costs of, and directly benefit from this rulemaking. The ASRS incurred the cost of the rulemaking. The ASRS currently has a total membership of approximately 558,136.

Specifically, members, beneficiaries, and Employers who wish to appeal an agency determination will be affected and benefited by this rulemaking. This rule will clarify how the appeals process is administered. Such clarification will benefit members, beneficiaries, and Employers by increasing the readability of the appeals rules.

5. Cost-benefit analysis:

- a. Costs and benefits to state agencies directly affected by the rulemaking including the number of new full-time employees at the implementing agency required to implement and enforce the proposed rule:

All ASRS members, beneficiaries, and Employers are directly affected by this rulemaking because it will clarify how the appeals process is administered.

However, the ASRS has determined that no new full-time employees will be required to implement and enforce the rules.
- b. Costs and benefits to political subdivisions directly affected by the rulemaking:

This rulemaking does not provide any benefits or impose any costs on political subdivisions.
- c. Costs and benefits to businesses directly affected by the rulemaking:

No businesses are directly affected by the rulemaking.
6. Impact on private and public employment:

The rulemaking will have no impact on private or public employment.
7. Impact on small businesses²:
 - a. Identification of the small business subject to the rulemaking:

No businesses, regardless of size, are subject to the rulemaking.
 - b. Administrative and other costs required for compliance with the rulemaking:

Not applicable.
 - c. Description of methods that may be used to reduce the impact on small businesses:

Not applicable.
8. Cost and benefit to private persons and consumers who are directly affected by the rulemaking:

All ASRS members, beneficiaries, and Employers are directly affected by the rulemaking.

The effect has been previously described above.

² Small business has the meaning specified in A.R.S. § 41-1001(20).

9. Probable effects on state revenues:

There will be no effect on state revenues.

10. Less intrusive or less costly alternative methods considered:

The ASRS believes this is the least costly and least intrusive method because it will clarify the appeals process without imposing any additional requirements on the public.